

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

AGIM FETAHU,
Plaintiff,

vs.

CITY OF SALT LAKE, et al.,
Defendants.

MEMORANDUM DECISION AND
ORDER DENYING PLAINTIFF'S
MOTION FOR DEFAULT
JUDGMENT AS TO DEFENDANT
MARCUS BARRETT AND FINDING
MOOT PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT AS TO
DEFENDANT WEST VALLEY
FITNESS GROUP, LLC dba GOLD'S
GYM (WEST VALLEY II)

Case No. 2:07-CV-15 TS

This matter comes before the Court on Plaintiff's Motion for Default Judgment as to Defendant Marcus Barrett¹ and Plaintiff's Motion for Default Judgment as to Defendant West Valley Fitness Group, LLC dba Gold's Gym (West Valley II).² For the reasons discussed below, the Court finds that Plaintiff's Motion as to West Valley Fitness Group is moot. Further, the Court will deny Plaintiff's Motion as to Marcus Barrett.

¹Docket No. 49.

²Docket No. 10.

Plaintiff filed this action on January 12, 2007.³ Defendant West Valley Fitness Group was served on January 23, 2007,⁴ and Defendant Barrett was served on January 24, 2007.⁵ Defendant West Valley Fitness Group failed to respond and Plaintiff brought a Motion for Default Judgment on February 16, 2007.⁶ On March 16, 2007, Defendant Barrett filed a Notice of Bankruptcy Filing stating that he had filed a petition for bankruptcy.⁷

On April 4, 2007, Plaintiff filed an Amended Complaint.⁸ Defendant West Valley Fitness Group was served on April 11, 2007,⁹ and Defendant Barrett was served on May 8, 2007.¹⁰ On April 30, 2007, Defendant West Valley Fitness Group filed an Answer.¹¹ Defendant Barrett has not filed an answer to date. On June 1, 2007, Plaintiff filed his Motion for Default Judgment as to Defendant Barrett.¹²

The Court finds that Plaintiff's Motion for Default Judgment as to Defendant Barrett is prevented by the automatic stay in effect pursuant to 11 U.S.C. § 362. Therefore, Plaintiff's Motion is denied.

³Docket No. 1.

⁴Docket No. 8.

⁵Docket No. 5.

⁶Docket No. 10.

⁷Docket No. 24.

⁸Docket No. 29.

⁹Docket No. 38.

¹⁰Docket No. 48.

¹¹Docket No. 40.

¹²Docket No. 49.

The Court also finds that since Defendant West Valley Fitness Group has filed an Answer to Plaintiff's Amended Complaint, Plaintiff's Motion for Default Judgment as to West Valley Fitness Group is moot.

It is therefore

ORDERED that Plaintiff's Motion for Default Judgment as to Defendant Marcus Barrett (Docket No. 49) is DENIED. It is further

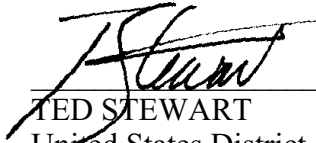
ORDERED that Plaintiff's Motion for Default Judgment as to Defendant West Valley Fitness Group, LLC dba Gold's Gym (West Valley II) (Docket No. 10) is MOOT. It is further

ORDERED that the hearing set for August 22, 2007, is STRICKEN.

SO ORDERED.

DATED this 10th day of August, 2007.

BY THE COURT:



TED STEWART
United States District Judge